

REMARKS

The Application has been carefully reviewed in light of the Final Action mailed September 6, 2006. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1-9, 11, 13-19, 22, 26, and 27 stand rejected under 35 U.S.C. §102(e) as being anticipated by Williams, et al. Independent Claims 1 and 15 recite in general an ability to provide the customer with a feedback page graphically illustrating data corresponding to the customer's standing in a selected peer group associated with the customer, provide the customer with options operable to adjust the customer's actual demographic to a hypothetical demographic, receive and process data associated with hypothetical demographic changes from the customer, and display hypothetical feedback information graphically illustrating the hypothetical standing of the customer within the selected peer group. By contrast, the portions of the Williams, et al. patent cited by the Examiner merely disclose static savings available for an individual based on different contributions and withdrawal scenarios. The Williams, et al. patent fails to disclose any association with a selected peer group or how hypothetical changes affect a hypothetical standing of the customer within that selected peer group as required in the claimed invention. Therefore, Applicant respectfully submits that Claims 1-9, 11, 13-19, 22, 26, and 27 are not anticipated by the Williams, et al. patent.

The Examiner cites FIGURES 1h and 6b to support the rejections of the claims. However, FIGURE 1h merely shows an individual user's accumulated savings with interest through the years compared to that individual user's contributions and withdrawals. There is no showing of how the individual stands

within any group let alone a selected peer group associated with the individual user. In addition, the benchmark comparison shown in FIGURE 1j is merely to a generic exchange benchmark and not to a selected peer group associated with the individual user as required by the claimed invention. For FIGURE 6b, the Examiner relies on the statement in the Williams, et al. patent that typical retirees need 80% of their pre-retirement income. However, this number is a hypothetical number applied to everyone using the retirement planning system of the Williams, et al. patent and is not selected according to any peer group. Moreover, there is no showing in the Williams, et al. patent of the individual user's standing in any group let alone an associated peer group when applying the 80% hypothetical number. Though the Williams, et al. patent discloses that the individual user can change the 80% hypothetical number, there is still no showing as to how the individual user stands with respect to any group let alone the associated peer group as required by the claimed invention. Thus, the Williams, et al. patent does not teach each and every limitation of the claimed invention.

Claims 23-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Jones III, et al. in view of Marsh, et al. Independent Claim 23 recites ". . . a survey system operable to supply the business data processing system with targeted marketing reports, the targeted marketing reports dynamically generated based on a set of decision rules, the set of decision rules dynamically generated based on data received directly from the customers." By contrast, the Jones III, et al. patent receives data from content providers accumulated based on past performance of consumers. Thus, the Jones III, et al. patent fails to receive data directly from customers as required in the claimed invention. Moreover, the

Jones III, et al. patent does not discuss the use of decision rules being used to generate the targeted marketing reports let alone decision rules being generated based on customer data as required by the claimed invention. The Examiner now cites the Marsh, et al. patent to overcome the deficiencies of the Jones III, et al. patent. However, the Marsh, et al. patent merely states that demographic information may be obtained by having a user complete a survey. However, the Marsh, et al. patent fails to disclose the use of the survey information for generating decision rules that are used for generating the targeted marketing reports. Therefore, Applicant respectfully submits that Claims 23-25 are patentably distinct from the proposed Jones III, et al. - Marsh, et al. combination.

Claims 10, 12, 20, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Williams, et al. in view of Official Notice. Independent Claim 1, from which Claims 10 and 12 depend, and Independent Claim 15, from which Claims 20 and 21 depend, have been shown above to be patentably distinct from the Williams, et al. patent. In addition, Applicant respectfully requests the Examiner to cite documentation to support the taking of Official Notice in this rejection. The Examiner has stated that the cited features of Claims 12 and 21 are well known in the art but there has been no showing by the Examiner that the cited features were well known at the time of the claimed invention. Therefore, Applicant respectfully submits that Claims 10, 12, 20, and 21 are patentably distinct from the proposed Williams, et al. - Official Notice combination.

Claim 28 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Williams, et al. in view of Jones III, et al. Independent Claim 15, from which Claim 28 depends, has

been shown above to be patentably distinct from the Williams, et al. patent. Moreover, the Jones III, et al. patent does not include any additional disclosure combinable with the Williams, et al. patent that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claim 28 is patentably distinct from the proposed Williams, et al. - Jones III, et al. combination.

Applicant respectfully requests withdrawal of the finality of the present Office Action. "Before final rejection is in order a clear issue should be developed between the examiner and applicant." M.P.E.P. §706.07. A clear issue has not been developed between the Examiner and Applicant with respect to the Marsh, et al. patent as the Examiner has only now used the Marsh, et al. patent to support a rejection of these claims. According to M.P.E.P. §706.07, hasty and ill-considered final rejections are not sanctioned. "The applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application." M.P.E.P. §706.07. "To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection." M.P.E.P. §706.07.

Applicant responded to the previous rejections of the claims and overcame the Jones III, et al. patent used by the Examiner to reject these claims. Now the Examiner comes back

with the Marsh, et al. patent in combination with the Jones III, et al. patent which the Examiner did not use as a basis for any rejection of these claims in the previous Office Action. The Examiner now uses the Marsh, et al. patent in the same manner as the Jones III, et al. patent was used in the previous Office Action. Thus, the Examiner has not followed the M.P.E.P. where it states that "[s]witching from . . . one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance or a final rejection." Amendments to the claims in response to the previous Office Action did not substantially change the subject matter of the claims to force the Examiner to now use the Marsh, et al. in support of the claim rejections.

As a result, Applicant has not been given the cooperation of the Examiner as required and has been denied an opportunity to fully address the Marsh, et al. patent and associated new grounds of rejection. By not providing Applicant the capability to fully respond to the Marsh, et al. patent without the assurance that the response would be considered and entered, the Examiner has prematurely cut off prosecution of the present Application. Applicant has not been given a full and fair hearing to which it is entitled and a clear issue has not been developed as required. Therefore, Applicant respectfully submits that the final rejection is premature and that the finality of the present Office Action be withdrawn.

CONCLUSION

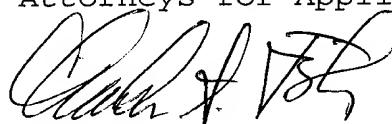
Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of Claims 1-28.

The Commissioner is hereby authorized to charge any fees or credit any overpayments associated with this Application to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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